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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,752

01/26/2006

Anthony Bruce Pike

16-978P/US

1633

26294

7590

03/18/2010

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EXAMINER

NICHOLSON, KERI JESSICA

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

03/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/561,752	Applicant(s) PIKE, ANTHONY BRUCE	
	Examiner KERI J. NICHOLSON	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-9,12,14-22 and 26-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,12,14-22 and 26-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/14/2009</u> . | 6) <input checked="" type="checkbox"/> Other: <u>"Fiber Science" by Steven B. Warner.</u> |

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DETAILED ACTION

This Office action is in response to the amendments and arguments filed October 22, 2009 for application 10/561,752. The two information disclosure statements filed September 14, 2009 have been considered February 26, 2010. Claims 1, 2, 4, 7, 12, 16-20, and 26 have been amended, claims 23-25 have been cancelled, and claims 27-38 have been newly added; claims 1, 2, 4-9, 12, 14-22, and 26-38 are currently pending.

Information Disclosure Statement

1. The information disclosure statement filed September 14, 2009 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Claim 33 recites the limitations “a *single* woven material” and “said coefficient of static friction is *within fifteen percent* of said coefficient of dynamic friction”; however, there is insufficient support for these limitations in the original specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 33 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 33 recites the limitations “a *single* woven material” and “said coefficient of static friction is *within fifteen percent* of said coefficient of dynamic friction”; however, there is insufficient support for these limitations in the specification as originally filed. There is no indication that the medical protection sheeting is made from a “single” material and the closest statement found in Applicant’s original disclosure to support the second limitation is “ μ_s should be no more than 20% greater than μ_d ” (page 7, line 18). However, this is not the same as “within fifteen percent” and the new claim limitations are therefore considered new matter. Applicant is required to cancel the new matter in the reply to this Office action.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(f) he did not himself invent the subject matter sought to be patented.

6. Claims 1, 2, 4-7, 12, 14, 15, 35, and 38 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter. As best can be understood, the medical protection sheeting as claimed by Applicant is nothing more than a sheet of material providing

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the claimed properties that are found in materials made by DuPont (470T743, 350T749, 98Wext/4) as disclosed by Applicant's specification (page 2, lines 22-29; page 3, lines 15-19). It appears Applicant has not altered these materials to produce something new or different but rather merely claims functional language to distinguish an intended use of the material. Further, a product guide sheet published by DuPont on February 21, 2003, indicates that both 470T742 and 350T749 material were known and commercially available prior to Applicant's filing date (see attached DuPont Airbag Fibers). Therefore, the invention encompassed by Applicant's claims are directed to the materials made by DuPont rather than an invention made by Applicant. It is also noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

7. Claims 1 and 34-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Berge (US Patent 4,051,565).

8. Regarding claims 1 and 34-37, Berge discloses the use of a relatively friction-free material as a slide sheet for transporting patients such as a woven nylon material (column 3, lines 38-40), wherein the relatively friction-free interior layer (22) of the tubular mat (15) would be capable of contacting a patient since the ends of the mat are open to the interior (Figs. 3-4). Further, regarding the limitation "a coefficient of static friction *substantially* the same as its coefficient of dynamic friction" has been given the broadest reasonable interpretation since there is no clear indication of what range of values would be encompassed by the phrase "substantially the same". Therefore, for examination purposes, the above limitation has been understood such that a material that is "relatively friction-free" as disclosed by Berge will have a

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low coefficient of static friction that is “substantially the same” as its low coefficient of dynamic friction.

9. Regarding claim 38, Berge discloses an article (15) comprising a medical protection sheeting (22) formed from a low frictional material (nylon) (column 3, lines 38-40), which has a coefficient of static friction no more than 20% of its coefficient of dynamic friction as evidenced by Warner (Table 14.2). Further, the relatively friction-free interior layer (22) of the tubular mat (15) would be capable of contacting a patient since the ends of the mat are open to the interior (Figs. 3-4).

10. Claims 1, 2, 4, 6, 12, 26, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Garner (US Patent 5,329,655).

11. Regarding claims 1, 2, and 34, Garner discloses a medical protection sheeting (15) used as a slide sheet formed from a low frictional woven rayon material having a surface capable of contacting a patient (column 3, lines 66-67; column 4, lines 15-22) and which has a coefficient of static friction and a coefficient of dynamic friction between itself and linen of less than 0.4 as evidenced by Warner (Table 14.2). The term “linen” has been given the broadest reasonable interpretation to mean “articles or garments made from linen or a similar cloth, such as cotton; bed sheets or tablecloths” as defined by the online American Heritage Dictionary. In the instant case, Warner teaches that the coefficient of static friction and the coefficient of dynamic friction between rayon and rayon, from which garments and bed sheets may be made, is 0.35 and 0.26, respectively. Further, regarding the limitation “a coefficient of static friction *substantially* the same as its coefficient of dynamic friction” has been given the broadest reasonable interpretation since there is no clear indication of what range of values would be encompassed by the phrase “substantially the same”. Therefore, for examination purposes, the above

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limitation has been understood such that a “low frictional material” as disclosed by Garner will have a low coefficient of static friction that is “substantially the same” as its low coefficient of dynamic friction.

12. Regarding claims 1, 4, 6, and 12, Garner discloses a medical protection sheeting (15) used as a slide sheet formed from a low frictional woven polyester material having a surface capable of contacting a patient (column 3, lines 66-67; column 4, lines 15-22). It has been shown that woven polyester material may have a linear density between 400 and 1,000 decitex and a weight between 50 and 200 g/m² as evidenced by DeBenedictis et al. (US Patent Pub. 2006/0252322) (Abstract). Further, regarding the limitation “a coefficient of static friction *substantially* the same as its coefficient of dynamic friction” has been given the broadest reasonable interpretation since there is no clear indication of what range of values would be encompassed by the phrase “substantially the same”. Therefore, for examination purposes, the above limitation has been understood such that a “low frictional material” as disclosed by Garner will have a low coefficient of static friction that is “substantially the same” as its low coefficient of dynamic friction.

13. Regarding claim 26, Garner discloses a method of reducing risk of damage to skin of patients in areas where skin is subject to pressure comprising the steps of providing a medical protection sheeting (15) fabricated from a woven polyester material having a low coefficient of friction and covering a patient's skin with the medical protection sheeting (Figs. 1-2; column 3, lines 66-67; column 4, lines 15-22). It is generally known in the art that a low frictional material may have a coefficient of friction less than 0.4 and the coefficient of static friction within twenty percent of its coefficient of dynamic friction depending on various factors such as surface treatments (i.e., lubricants, etc.), direction of rubbing, and type of material being rubbed against. Further, it is known that woven polyester material may have a linear density between 400 and

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1,000 decitex and a weight between 50 and 200 g/m² as evidenced by DeBenedictis et al. (US Patent Pub. 2006/0252322) (Abstract).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 2 and 35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Berge (US Patent 4,051,565) as applied to claim 1 above. Berge discloses the invention substantially as claimed, as described above. Furthermore, Applicant has disclosed that commercially available nylons DuPont 470T743, 350T749, and 98Wext/4 have suitable properties for the intended use as a medical sheeting but Applicant has not altered the properties to produce any unexpected result (pages 2-3 of Specification). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to use a low-frictional nylon, such as that made by DuPont, for a medical sheeting device as taught by Berge since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

16. Claims 2, 4, 6, 12, and 35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Garner (US Patent 5,329,655) as applied to claim 1 above. Garner discloses the invention substantially as claimed, as described above. Furthermore, Applicant has disclosed that commercially available nylons DuPont

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470T743, 350T749, and 98Wext/4 have suitable properties for the intended use but Applicant has not altered the properties to produce any unexpected result (pages 2-3 of Specification). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to use a low-frictional nylon, such as made by DuPont, for a medical sheeting device as taught by Garner since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

17. Claims 4-7, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berge as applied to claim 1 above in view of DeBenedictis et al. (US Patent Pub. 2006/0252322).

18. Regarding claims 4, 12, and 14, Berge discloses the invention substantially as claimed, as described above, but fails to teach that the linear density of the material is between 40 and 1,000 decitex and is about 470 decitex. DeBenedictis discloses that the commercially available nylon yarn DuPont T743, which has also been disclosed by Applicant as a suitable material, has a linear density of 467 decitex (Table 2).

19. Regarding claims 5 and 7, Berge fails to teach that the material has a linear density of 350 decitex and a weight of 180 g/m². As disclosed by Applicant, commercially available DuPont T749 has a linear density of 350 decitex and a weight of 180 g/m² (pages 2-3 of Specification).

20. Regarding claim 6, Berge fails to teach that the material has a weight between 200 and 50 g/m². DeBenedictis discloses that the weight of DuPont 743 is 183 g/m² (page 3, ¶ 43).

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21. Regarding claim 15, Berge fails to teach that the material has a linear density of about 50 decitex. As disclosed by Applicant, commercially available DuPont 98Wext/4 has a linear density of 50 decitex.

22. Claims 8 and 9 are rejected under 35U.S.C. 103(a) as being unpatentable over Garner as applied to claim 1 above in view of Kuehnreich (US Patent 5,176,624). Garner discloses the invention substantially as claimed, as described above, but fails to teach that the material is formed as a boot without a toe. Kuehnreich discloses a shoe bandage adapted to be worn over a foot bandage, foot injuries, or foot wounds that may be formed with a cutout (23) for the toes (Fig. 5; Abstract; column 4, lines 40-42). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to use a medical material as disclosed in Garner in the form of a boot as taught by Kuehnreich for the care of foot related injuries.

23. Claims 16-22 and 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuehnreich (US Patent 5,176,624) in view of Holt et al. (US Patent 5,778,565).

24. Regarding claims 16, 21, and 27, Kuehnreich discloses a shoe bandage adapted to be worn over a foot bandage, foot injuries, or foot wounds, comprising a housing (1) for enveloping a foot having an interior and exterior surface; a first and second end located about the housing such that the first end is enclosed forming a toe and a second end includes an opening for receiving a foot; an external seam securing the housing of the boot from the first end to the second end; a slice (4) extending from the opening at the second end to a midsection of the boot; a plurality of straps (8, 9) encompassing the slice for the substantially closing and securing the slice about a foot (Figs. 3-7; column 3, line 54 – column 4, line 24). However, Kuehnreich fails to teach a collar surrounding the opening at the second end.

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Holt discloses an orthopedic shoe (10) made of a woven material comprising a housing (14) and a collar (28a/28b) surrounding an opening at a second end for receiving a foot of a user (Figs. 1-2; column 2, lines 51-57; column 4, lines 50-52). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the shoe bandage taught by Kuehnreich to further comprise a collar as taught by Holt for the purposes of securing the shoe around the user's ankle. However, the combination of Kuehnreich and Holt fails to teach that the housing is made from a low frictional material with a coefficient of static friction substantially the same as its coefficient of dynamic friction. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to make the shoe bandage taught by the combination of Kuehnreich and Holt such that the housing comprises of a low frictional material such as a nylon material since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Furthermore, it is noted that since the shoe bandage taught by the combination of Kuehnreich and Holt is made from a single layer of material, both in the interior and exterior surfaces may have the same properties with respect to their coefficients of friction.

25. Regarding claims 17 and 28, Kuehnreich discloses that the shoe bandage can be formed with a cutout (23) for the toes (column 4, lines 40-42).

26. Regarding claims 18-20, 22, and 29-32, linear density, coefficient of friction, and weight are inherent properties of a given material. Applicant has disclosed that commercially available nylons DuPont T743, T749, and 98Wext/4 have suitable properties for the intended use (pages 2-3 of Specification). At the time the invention was made, it would have been obvious to one having ordinary skill in the art to make the shoe bandage taught by the combination of Kuehnreich and Holt such that the housing comprises of a low frictional material such as one of

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the above mentioned nylon material made by DuPont since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

27. Claim 33 is rejected under 35 U.S.C. 103(a) over Garner (US Patent 5,329,655) in view of Langley et al. (US Patent Pub. 2004/0116022). Garner discloses a method of reducing risk of damage to skin of patients in areas where skin is subject to pressure comprising the steps of providing a medical protection sheeting (15) having first and second surfaces fabricated from a woven material (rayon) having a low coefficient of friction and covering a patient's skin with the medical protection sheeting (Figs. 1-2; column 3, lines 66-67; column 4, lines 15-22), wherein the coefficient of static friction and the coefficient of dynamic friction between itself and linen is less than 0.4 as evidenced by Warner (Table 14.2). The term "linen" has been given the broadest reasonable interpretation to mean "articles or garments made from linen or a similar cloth, such as cotton; bed sheets or tablecloths" as defined by the online American Heritage Dictionary. In the instant case, Warner teaches that the coefficient of static friction and the coefficient of dynamic friction between rayon and rayon, from which garments and bed sheets may be made, is 0.35 and 0.26, respectively. However, Garner fails to teach that the coefficient of static friction is within fifteen percent of the coefficient of dynamic friction. At the time the invention was made, it would have been obvious to modify the medical sheeting used in the method taught by Garner to include a lubricating agent to reduce the coefficient of friction such that the coefficient of static friction is within fifteen percent of the coefficient of dynamic friction in order to improve the ease of use for sliding a patient. However, Garner also fails to teach that the medical protection sheeting is woven from a yarn having a linear density between 400 and 1,000 decitex and a weight between 50 and 200 gm/m².

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Langley discloses a protective sheet that may be made from rayon having a yarn size having linear density between 50 and 350 decitex and a weight between 50 and 350 gm/m² (page 3, ¶ 24). At the time of the invention, it would have been obvious to one having ordinary skill in the art to modify the medical sheeting made from rayon used in the method taught by Garner to be made from use a rayon yarn having a linear density between 40 and 1,000 decitex and a weight between 50 and 200 gm/m² as taught by Langley in order to improve the strength and durability of the medical sheet. Further, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

28. Applicant's arguments filed October 22, 2009 have been fully considered but they are not persuasive.

29. In response to Applicant's argument that the "DuPont Airbag Fibers" document does not teach fabric materials and there is no teaching or suggestion to prepare a fabric for any medical use, the examiner disagrees. First, DuPont notes that the fibers are intended to be processed into fabrics (under the heading "Increasing Efficiency"). Second, it appears Applicant is attempting to rely on features (i.e., preparation of a fabric for medical use) that are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, the rejection of claims 1, 2, 4-7, 12, 14, and 15 under 35 U.S.C. 102(f) was primarily based on Applicant's own disclosure that teaches that the claimed properties were found merely through testing the material already produced by DuPont. There is no evidence from Applicant's disclosure that those materials have been altered to

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produce an unexpected result or to create something new or different. The product guide sheet published by DuPont on February 21, 2003, indicates that both 470T742 and 350T749 material were known and commercially available prior to Applicant's filing date (see attached DuPont Airbag Fibers). Therefore, the invention encompassed by Applicant's claims are directed to the materials made by DuPont rather than an invention made by Applicant.

30. In response to Applicant's argument that Berge does not disclose that the relatively friction-free material has a patient contact surface, it is noted that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Although the relatively friction-free material forms the interior surface of the tubular mat, a patient is still capable of coming into contact with the interior surface of the mat via one of the open ends (Figs. 3-4). Further, it is noted that the features upon which Applicant relies (i.e., material contacting the patient's skin) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

31. In response to Applicant's argument that Garner fails to disclose that the "slick fabric" has a coefficient of static friction substantially the same as its coefficient of dynamic friction, the examiner disagrees. First, since the rejected claims do not recite what range of values would be encompassed by the phrase "substantially the same", the limitation has therefore been given the broadest reasonable interpretation such that the "low frictional material" as disclosed by Garner will have a low coefficient of static friction that is "substantially the same" as its low coefficient of dynamic friction. Second, it is noted that coefficients of static and dynamic friction depend on a variety of factors and variables including but not limited to surface treatments (i.e.,

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lubricants, etc.), direction of rubbing, and type of material being rubbed against. Therefore, merely claiming a general coefficient of friction without parameters of the conditions determining the coefficient is broad and may be easily modified by altering the above mentioned variables.

32. In response to Applicant's argument that Garner fails to teach that the low-frictional material has a patient contact surface, the examiner disagrees. The outer surface (15) is clearly capable of contacting a patient as a matter of intended use. Further, it is noted that the patient contact surface is not required to come into direct contact with the patient by the current claim language.

33. The examiner recognizes Applicant's assertion that an "elastic type bandage material" as disclosed by Kuehnrieck is typically associated with characteristics of a high coefficient of friction; however absent any evidence to support Applicant's conclusory statement, the examiner notes that the above rejection is maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KERI J. NICHOLSON whose telephone number is 571-270-3821. The examiner can normally be reached on Monday - Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KJN
/Keri J. Nicholson/
Examiner, Art Unit 3772
3/12/2010

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772